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Attorneys for Defendants and Counterclaimants
 STRYKER CORPORATION AND STRYKER
 COMMUNICATIONS, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

KARL STORZ ENDOSCOPY-AMERICA, INC.,
 Plaintiff,
 vs.
 STRYKER CORPORATION and STRYKER
 COMMUNICATIONS, INC.,
 Defendants.

AND RELATED COUNTERCLAIMS

Case No. C 09-0355 (VRW)

**AMENDED STIPULATION AND
~~PROPOSED~~ ORDER CONTINUING
 SUMMARY JUDGMENT AND CLAIM
 CONSTRUCTION HEARINGS AND
 RELATED DEADLINES; DECLARATION
 OF WILLIAM R. OVEREND IN SUPPORT
 OF SAME**

Honorable Vaughn R. Walker

Pursuant to Civil Local Rules 6-1 and 6-2, Plaintiff Karl Storz Endoscopy-America, Inc. (“KSEA”) and Defendants Stryker Corporation and Stryker Communications, Inc. (collectively, “Stryker”), through their respective counsel of record, hereby stipulate as follows:

1. Per the Court’s November 6, 2009 Minute Order, the hearing on Stryker’s Motion for Summary Judgment of Non-Infringement (Docket No. 110) and KSEA’s Cross Motion for Partial Summary Judgment of Infringement (Docket No. 154) is currently set for February 11, 2010. In addition, KSEA responded to Stryker’s Motion for Summary Judgment of Non-Infringement, in part, by filing a Rule 56(f) Motion To Allow Time for Necessary Discovery in Light of Pending Motion for Summary Judgment, which is also set for hearing on February 11, 2010. Finally, per the Court’s May 14, 2009 Case Management Order, the Claim Construction hearing is presently set for March 17, 2010.

2. Based on the Court’s Notice of Unavailability and subsequent communications with the Courtroom Deputy, Cora Klein, the parties understand that the Court is no longer available on either February 11 or March 17, 2010. Ms. Klein has therefore requested that the parties re-schedule both hearings, and has noted that the earliest available hearing date would be in June 2010. In a subsequent communication, Ms. Klein specifically proposed June 23, 2010, at 9:30 a.m. for the hearing date.

3. When the original schedule was set, both the parties and the Court envisioned that it would be more efficient to hear the summary judgment motions before claim construction. However, now that the parties have filed their respective summary judgment motions and their Joint Claim Construction Statement, it is now apparent that the majority of claim terms at issue in claim construction are also at issue in the summary judgment motions. Accordingly, the parties both agree that it would be more efficient to hear the summary judgment motions and claim construction at the same time, and that doing so would better conserve judicial resources and the resources of the parties.

4. The parties therefore propose the following modified schedule for both summary judgment and claim construction, as well as related deadlines:

• June 23, 2010, at 9:30 a.m.: Hearing on (a) Stryker's Motion for Summary Judgment of Non-Infringement, (b) KSEA's Cross Motion for Summary Judgment of Infringement, (c) KSEA's Rule 56(f) Motion To Allow Time for Necessary Discovery in Light of Pending Motion for Summary Judgment, and (d) Claim Construction;

• April 30, 2010: Deadline for KSEA and Stryker to file responsive claim construction briefs re claim construction (previously set for February 26, 2010);

• April 9, 2010: Deadline for KSEA and Stryker to file opening claim construction briefs and supporting evidence (previously set for February 5, 2010);

• March 28, 2010: Deadline to complete claim construction discovery under Patent L.R. 4-4 (previously set for January 20, 2010);

• February 8, 2010: Deadline for Stryker to file Opposition to KSEA's Cross Motion for Summary Judgment of Infringement (previously set for February 1, 2010). Per the parties' earlier discussions and agreement, as discussed with the Court at the second Case Management Conference, the parties agree that Stryker shall be allowed thirty-five pages for its Opposition.

5. Pursuant to Civil L.R. 6-2(a)(1)-(3), this stipulated request is accompanied by the attached declaration setting forth (a) the reasons for the requested rescheduling; (b) all previous time modifications in the case; and (c) the effect of the requested rescheduling.

IT IS SO STIPULATED.

Respectfully submitted,

Dated: January 27, 2010.

REED SMITH LLP

By /s/ William R. Overend
William R. Overend
Attorneys for Defendants
Stryker Corporation and Stryker Communications, Inc.

1 Dated: January 27, 2010.

BECK, ROSS, BISMONTE & FINLEY, LLP

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3 By /s/ Alfredo A. Bismonte
4 Alfredo A. Bismonte
5 Attorneys for Plaintiff
6 Karl Storz Endoscopy-America, Inc.
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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 1, 2010

Honorable Vaughn R. Walker
United States District Judge



CERTIFICATION

I hereby attest that concurrence in the filing of this document has been obtained by the above named signatories.

DATED: January 27, 2010.

REED SMITH LLP

By /s/ William R. Overend
William R. Overend
Attorneys for Defendants
Stryker Corporation and Stryker Communications,
Inc.

1 I, William R. Overend, declare:

2 1. I am a partner with Reed Smith LLP, local counsel for Stryker in the above-captioned
3 action. I have personal knowledge of the matters set forth below, and if called upon I could and
4 would testify competently thereto.
5

6 2. The reasons for the requested re-scheduling are stated in Paragraphs 1-3 of the
7 Stipulation herein.
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9 3. No previous time modifications have been sought or entered in this case which have
10 altered any date set by this Court's May 14, 2009 Case Management Order or November 6, 2009
11 Minute Order, or any other deadline already fixed by the Court, with the exception of an extension
12 of the deadline to file the parties' Joint Claim Construction Statement from December 17, 2009 to
13 January 7, 2010 (which the Court granted).
14

15 4. The requested extension would affect only the deadlines set forth in the Stipulation,
16 but will not affect trial, pretrial or other case deadlines.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.
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20 DATED: January 27, 2010.

21 By /s/ William R. Overend
22 William R. Overend
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